

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

In re:	:	Chapter 11
CBGB Holdings, LLC	:	Case No. 10-13130 (SMB)
Debtor.	:	
CBGB Holdings, LLC,	:	District Court
Appellant,	:	Case No. 10-cv-08839 (BSJ)
v.	:	
The Estate of Hillel Kristal,	:	
Appellee.	:	

**STIPULATION AND ORDER DISMISSING APPEAL WITH PREJUDICE**

**WHEREAS**, on June 11, 2010 (the “Petition Date”), CBGB Holdings, LLC (“CBGB” or the “Debtor”) filed a voluntary petition for reorganization under Chapter 11 of Title 11, United States Code (“Bankruptcy Code”) in the United States Bankruptcy Court for the Southern District of New York (“Bankruptcy Court”) commencing the above-captioned bankruptcy case (the “Bankruptcy Case”); and

**WHEREAS**, the Bankruptcy Court entered a memorandum of law and order, dated October 13, 2010 (the “Order”), determining and resolving certain issue in favor of Appellee [Bankruptcy Case Docket No. 45]; and

**WHEREAS**, on October 22, 2010, the Debtor took an appeal from the Order by filing a notice of appeal (the “Appeal”) [Bankruptcy Case Docket No. 48]; and

**WHEREAS**, on or about November 23, 2010, the Appeal, fashioned as *CBGB Holdings, LLC v. The Estate of Hillel Kristal*, Case No. 10-cv-08839 (BSJ), was docketed before the United States District Court for the Southern District of New York (the “Court”); and

**WHEREAS**, on December 1, 2010, the Bankruptcy Court entered an order dismissing the Bankruptcy Case and directing certain other post-dismissal related action [Bankruptcy Case Docket No. 59] (the “Dismissal Order”); and

**WHEREAS**, by and through the Dismissal Order, the Parties agree that dismissal of the Bankruptcy Case renders this issues set forth in this Appeal moot; and

**WHEREAS**, no action has been taken with respect to the Appeal since it was docketed in this Court on November 23, 2010;

**[Continued on the next page]**

**NOW, THEREFORE**, in consideration of the above premises, each of which are incorporated herein by reference, the Debtor and Kristal hereby stipulate and agree as follows:

1. The Appeal is hereby dismissed as moot, with prejudice.

Dated: New York, New York  
July 21, 2011

MCBREEN & KOPKO

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The Estate of Hillel Kristal*

SO ORDERED, this \_\_\_\_ day of \_\_\_\_\_, 2011:

\_\_\_\_\_  
HONORABLE BARBARA S. JONES  
UNITED STATES DISTRICT JUDGE